

# House File 265

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1 3 AN ACT  
1 4 RELATING TO THE WITHDRAWAL OF BLOOD WITHOUT A WARRANT FROM A  
1 5 PERSON UNDER ARREST FOR AN OPERATING=WHILE=INTOXICATED OFFENSE  
1 6 WHEN THE ARREST RESULTS FROM A TRAFFIC ACCIDENT RESULTING IN  
1 7 DEATH OR PERSONAL INJURY REASONABLY LIKELY TO CAUSE DEATH.  
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1 9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:  
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1 11 Section 1. NEW SECTION. 321J.10A BLOOD WITHDRAWAL  
1 12 WITHOUT A WARRANT.  
1 13 1. Notwithstanding section 321J.10, if a person is under  
1 14 arrest for an offense arising out of acts alleged to have been  
1 15 committed while the person was operating a motor vehicle in  
1 16 violation of section 321J.2 or 321J.2A, and that arrest  
1 17 results from an accident that causes a death or personal  
1 18 injury reasonably likely to cause death, a chemical test of  
1 19 blood may be administered without the consent of the person  
1 20 arrested to determine the amount of alcohol or a controlled  
1 21 substance in that person's blood if all of the following  
1 22 circumstances exist:  
1 23 a. The peace officer reasonably believes the blood drawn  
1 24 will produce evidence of intoxication.  
1 25 b. The method used to take the blood sample is reasonable  
1 26 and performed in a reasonable manner by medical personnel  
1 27 under section 321J.11.  
1 28 c. The peace officer reasonably believes the officer is  
1 29 confronted with an emergency situation in which the delay  
1 30 necessary to obtain a warrant under section 321J.10 threatens  
1 31 the destruction of the evidence.  
1 32 2. If the person from whom a specimen of blood is to be  
1 33 withdrawn objects to the withdrawal, a breath or urine sample  
1 34 may be taken under the following circumstances:  
1 35 a. If the person is capable of giving a specimen of  
2 1 breath, and a direct breath testing instrument is readily  
2 2 available, the withdrawal of a specimen of the person's breath  
2 3 may be taken for chemical testing, unless the peace officer  
2 4 has reasonable grounds to believe that the person was under  
2 5 the influence of a controlled substance, a drug other than  
2 6 alcohol, or a combination of alcohol and another drug.  
2 7 b. If the peace officer has reasonable grounds to believe  
2 8 that the person was under the influence of a controlled  
2 9 substance, a drug other than alcohol, or a combination of  
2 10 alcohol and another drug, a urine sample shall be collected in  
2 11 lieu of a blood sample, if the person is capable of giving a  
2 12 urine sample and the sample can be collected.  
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2 16 \_\_\_\_\_  
2 17 CHRISTOPHER C. RANTS  
2 18 Speaker of the House  
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2 20  
2 21 \_\_\_\_\_  
2 22 JEFFREY M. LAMBERTI  
2 23 President of the Senate  
2 24  
2 25 I hereby certify that this bill originated in the House and  
2 26 is known as House File 265, Eightieth General Assembly.  
2 27  
2 28  
2 29 \_\_\_\_\_  
2 30 MARGARET THOMSON  
2 31 Chief Clerk of the House  
2 32 Approved \_\_\_\_\_, 2004  
2 33  
2 34  
2 35 \_\_\_\_\_  
3 1 THOMAS J. VILSACK  
3 2 Governor